

AMENDED IN ASSEMBLY OCTOBER 26, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 558**

---

**Introduced by Assembly Member Portantino**

February 25, 2009

---

An act to add and repeal Section ~~65584.9~~ of the Government Code, relating to ~~land use~~; 680.1 of the Penal Code, relating to sexual assault crimes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 558, as amended, Portantino. ~~Land use planning; housing element; foster youth placement.~~ Sexual assault crimes.

Existing law, the Sexual Assault Victims' DNA Bill of Rights, authorizes a law enforcement agency investigating certain felony sex offenses, upon the request of the victim, and subject to the commitment of resources, to inform the victim whether or not a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from the case, whether or not that information has been entered into the Department of Justice Data Bank of case evidence, and whether or not there is a match between the DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, as specified. Existing law also requires that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the

*expiration of the statute of limitations, as specified. Existing law provides that the sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under the Sexual Assault Victims' DNA Bill of Rights is standing to file a writ of mandamus to require compliance with these notification provisions.*

*This bill would require local law enforcement agencies responsible for taking or processing rape kit evidence to annually report to the Department of Justice statistical information pertaining to the processing of rape kits, as specified. The reports received would be subject to inspection under the California Public Records Act. These provisions would become inoperative on July 1, 2016, and would be repealed on January 1, 2017.*

*By imposing additional reporting duties on local law enforcement agencies, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a housing element that identifies and analyzes existing and projected housing needs and includes a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.~~

~~The Planning and Zoning Law requires each local government to revise its housing element in accordance with a specified schedule. The Department of Housing and Community Development, in consultation with each council of governments, is required to determine each region's existing and projected housing need at least 2 years prior to a scheduled revision. The appropriate council of governments, or for cities and counties without a council of governments, the department, is required to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to a scheduled revision.~~

~~This bill would authorize a city, until January 1, 2017, to meet not more than 10% of its existing share of the regional housing need by adoption of a program that meets certain, listed requirements, including that the program actively promote and assist in the placement of foster youth in existing family-based households, as specified, and be approved by the council of governments that assigns the city's share of regional housing needs or, in the county absence of a council, by the department. For the 2nd and any subsequent planning period after the specified program has been adopted, the department or the council of governments, as applicable, would be prohibited from approving the program for these purposes if the program was not responsible for meeting 2.5% or more of the city's share of the regional housing need for the previous planning period. The bill would require the department or the council of governments, as applicable, to limit program approvals to the first 5 programs per region that apply and qualify for approval. The bill would require each city that has adopted a program to submit to the department or the council of governments, as applicable, 2 progress reports per planning period, on dates established by the department or the council of governments. The bill would require the reports to include the number of foster youth placements with a duration of one year or more that occurred during the reporting period, as verified by the county's program that manages foster youth placements.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 680.1 is added to the Penal Code, to read:  
2     680.1. (a) Each local law enforcement agency responsible for  
3     taking or processing rape kit evidence shall report, by July 1 of  
4     each year, the following information to the Department of Justice:  
5     (1) The total number of rape kits received during the preceding  
6     calendar year and, of that total, the number of rape kits for which  
7     the identity of the assailant is unknown and the number of rape  
8     kits for which the identity of the assailant is contested.  
9     (2) The total number of rape kits tested during the preceding  
10    calendar year and, of that total, the number of rape kits for which  
11    the identity of the assailant is unknown and the number of rape  
12    kits for which the identity of the assailant is contested.

1     (3) *The total number of rape kits that law enforcement has*  
2 *requested be tested and, of that total, the number of rape kits for*  
3 *which the identity of the assailant is unknown and the number of*  
4 *rape kits for which the identity of the assailant is contested.*

5     (4) *The number of rape kits that law enforcement has requested*  
6 *be tested that remain untested and, of that number, the number of*  
7 *rape kits for which the identity of the assailant is unknown and*  
8 *the number of rape kits for which the identity of the assailant is*  
9 *contested.*

10    (5) *The total number of untested rape kits in its possession as*  
11 *of January 1 of the reporting year.*

12    (6) *The total number of rape kits destroyed during the preceding*  
13 *calendar year.*

14    *The initial report to the department pursuant to this subdivision*  
15 *shall be made by July 1, 2012.*

16    (b) *The reports received pursuant to subdivision (a) are subject*  
17 *to inspection under the California Public Records Act (Chapter*  
18 *3.5 (commencing with Section 6250) of Division 7 of Title 1 of the*  
19 *Government Code).*

20    (c) *This section shall remain operative only until July 1, 2016,*  
21 *and shall be repealed on January 1, 2017, unless a later enacted*  
22 *statute, that is enacted before January 1, 2017, deletes or extends*  
23 *that date.*

24    SEC. 2. *If the Commission on State Mandates determines that*  
25 *this act contains costs mandated by the state, reimbursement to*  
26 *local agencies and school districts for those costs shall be made*  
27 *pursuant to Part 7 (commencing with Section 17500) of Division*  
28 *4 of Title 2 of the Government Code.*

29    ~~SECTION 1. The Legislature finds and hereby declares all of~~  
30 ~~the following:~~

31    ~~(a) The number of people across the state willing to become~~  
32 ~~foster parents declined by more than 30 percent since 2001, with~~  
33 ~~some counties experiencing even greater declines.~~

34    ~~(b) If this decline continues, more abused and neglected children~~  
35 ~~will be placed into group homes and homes operated by foster~~  
36 ~~family agencies at a substantially higher cost to the state and~~  
37 ~~counties.~~

38    ~~(c) Under the current system, the outcomes for youth who turn~~  
39 ~~18 years of age in foster care are often grim. Many leave the system~~  
40 ~~without family support, leaving them at high risk of becoming~~

1 victims of crime and becoming involved with the judicial system,  
2 homelessness, and unemployment. Many fail to complete high  
3 school and do not pursue higher education or vocational training.

4 (d) Foster youth who exit the system with permanent links to  
5 caring adults or families have a better chance for successful  
6 outcomes. When youth grow up in a family, that family is the  
7 major vehicle preparing them for the adult world. The values,  
8 skills, challenges, and opportunities that shape and define adulthood  
9 are woven into the fabric of their everyday lives. Through these  
10 lifelong connections, they discover what it means to learn, love,  
11 and live.

12 (e) To attain the goal of permanency, the state must be engaged  
13 in creating incentives that identify responsible adults and families  
14 willing to take on this task. New communities need to be tapped  
15 to improve outcomes for foster youth exiting the system. All  
16 government entities should have an opportunity to participate in  
17 this goal through state incentives.

18 (f) Cities are not directly involved in finding quality,  
19 family-based households for foster youth, but the Regional Housing  
20 Needs Assessment (RHNA) process creates many challenges in  
21 meeting the state's requirement to plan for future population  
22 growth. Especially difficult to plan are very low and low-income  
23 housing. Most cities are not actually required to zone for affordable  
24 housing. Instead, most zone at certain densities and presume these  
25 densities will allow affordable housing to be built. Because the  
26 housing element does not address the final outcome, setting the  
27 density does not guarantee affordability. In fact, property owners  
28 may ultimately decide to build luxury condominiums too expensive  
29 for low-income people.

30 (g) While most cities plan and meet their RHNA requirement  
31 to zone for affordable housing, the market decides when they are  
32 built. When they are built, critics wonder whether they truly  
33 accommodate low-income Californians and whether having an  
34 approved housing element actually made the difference.

35 (h) Since the RHNA process does not plan for the fluctuating  
36 population of foster youth in need of immediate and future housing,  
37 flexibility is needed to both plan and fulfill the state's responsibility  
38 to find quality foster parents. Zoning for future housing that may  
39 never be built pales in comparison to the immediate and ongoing

1 needs of foster care youth seeking quality family-based  
2 environments and permanency.

3 (i) In enacting this act, it is not the intent of the Legislature that  
4 cities avoid zoning for future populations. The purpose of this act  
5 is to give cities experiencing difficulty another tool to meet their  
6 RHNA requirement and involve them in the task of identifying  
7 family-based environments for foster youth.

8 SEC. 2. Section 65584.9 is added to the Government Code, to  
9 read:

10 65584.9. (a) A city may meet up to 10 percent of its existing  
11 share of the regional housing need pursuant to Section 65584 by  
12 adoption of a program that meets all of the following criteria:

13 (1) Actively promotes placement of foster youth in existing  
14 family-based households through advertisement and city-based  
15 incentives.

16 (2) Provides a process for coordinating city and county  
17 assistance to help interested persons by providing information and  
18 documents necessary to meet the responsibility of caring for foster  
19 youth.

20 (3) Serves as a resource to assist interested persons in accessing  
21 existing services that support the placement of foster youth in  
22 existing family-based households.

23 (4) Provides a plan to measure the success of the program, in  
24 coordination with the county's current system of data outcomes.

25 (5) Is approved by the council of governments that assigns the  
26 city's share of regional housing need or by the Department of  
27 Housing and Community Development if there is no council of  
28 governments.

29 (b) For the second and any subsequent planning period after the  
30 program described in subdivision (a) has been adopted, the  
31 Department of Housing and Community Development or the  
32 council of governments, as applicable, shall not approve the  
33 program for the purposes of paragraph (5) of subdivision (a) if the  
34 program was not responsible for meeting 2.5 percent or more of  
35 the city's share of the regional housing need pursuant to Section  
36 65584 for the previous planning period.

37 (c) The Department of Housing and Community Development  
38 or the council of governments, as applicable, shall limit approvals  
39 under paragraph (5) of subdivision (a) to the first five programs  
40 per region that apply and qualify for approval.

1     ~~(d) Each city that has adopted a program under this section shall~~  
2     ~~submit to the Department of Housing and Community Development~~  
3     ~~or the council of governments, as applicable, two progress reports~~  
4     ~~per planning period, on dates established by the department or the~~  
5     ~~council of governments, as the case may be. The reports shall~~  
6     ~~include, but are not limited to, the number of foster youth~~  
7     ~~placements with a duration of one year or more that occurred during~~  
8     ~~the reporting period as verified by the county's program that~~  
9     ~~manages foster youth placements.~~

10    ~~(e) This section shall remain in effect only until January 1, 2017,~~  
11    ~~and as of that date is repealed, unless a later enacted statute, that~~  
12    ~~is enacted before January 1, 2017, deletes or extends that date.~~